

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NLD ROCHESTER LLC,

Plaintiff,

v.

23-CV-6058 DGL

440 LAKE AVENUE, LLC,

Defendant.

**DECLARATION IN SUPPORT OF REQUEST FOR DEFAULT JUDGMENT FOR SUM
CERTAIN, STATEMENT OF AMOUNT DUE, and MOTION FOR ATTORNEYS' FEES**

Maxwell C. Radley, Esq., under penalty of perjury and pursuant to 28 U.S.C. §1746(2) declares the following to be true and correct:

1. I am associated with the law firm of Hurwitz Fine P.C. attorneys for the Plaintiff, NLD Rochester LLC, in the above-entitled action and I am familiar with the file, records and pleadings in this matter.
2. I submit this Declaration in support of NLD Rochester's motion for default judgment pursuant to [Federal Rules of Civil Procedure Rule 55\(b\)](#) and motion for attorneys' fees, costs and disbursements pursuant to [Federal Rules of Civil Procedure 54\(d\)](#).
3. The amount due in this action is:

Principal Demanded	\$83,888.00
Interest: ¹	\$8,106.56
Attorneys' Fees:	\$21,303.54
Costs and Disbursements:	\$496.46
Total:	\$113,794.56

¹ Interest is being calculated from March 23, 2022 to April 19, 2023 at 9% per annum as stated in CPLR §5004 (totaling \$7,549.92 per annum or \$20.68 per diem). *See Erie R. Co. v. Tompkins*, 304 US 64 (1938).

4. The summons and complaint was filed on January 23, 2023 ([Dkt No 1, 2](#)) and the summons was issued on January 24, 2023 ([Dkt No 3](#)).
5. Defendant was served with a copy of the summons and complaint on February 2, 2023, as evinced on the Court's docket by the proof of service filed on February 6, 2023 ([Dkt No 4](#)). The proof of service shows that defendant is not in military service, or an infant or incompetent.
6. A notice of appearance was entered by Joseph Shur, Esq. on behalf of Defendant 440 Lake Avenue LLC ([Dkt No 5](#)).
7. Defendant did not answer in the above-entitled action and time to do so has lapsed. Proceeding in this case required Plaintiff to hire two sets of counsel. The first, the Kasey Ratliff, Esq. and Matthew Joeckel, Esq. of Winstead P.C. based in Dallas, Texas. The second, is the undersigned and other attorneys identified herein.
8. Plaintiff, NLD Rochester LLC is also seeking an award of reasonable attorneys' in the amount of \$9,103.50 from the Hurwitz Fine P.C. Attached hereto and made a part hereof as Exhibit A are the invoices evincing the fees incurred.
9. The Time and Billing sheets included in Exhibit A identify the particular services performed, who performed those services, and when those services were performed.
10. The law firm of Hurwitz Fine P.C. charges an hourly rate of \$360.00 per hour for Senior Partners.
11. The Senior Partner, Andrea Schillaci, Esq., has more than 30 years of experience in business and commercial litigation. Senior Partner, Michael F. Perley, Esq., has more than 40 years of experience in litigation.
12. Associate Scott D. Kagan, Esq. charges an hourly rate of \$275 and has more than 10 years' experience in general litigation.

13. I am an associate and charge an hourly rate of \$200 and have more than 4 years' experience in business and commercial litigation.
14. Upon information and belief, the rate of \$360.00 per hour for Senior Partners is well within the range of fees charged by attorneys within Buffalo, New York with comparable experience. Associate rates are likewise well within the range of fees charged by attorneys within their geographic area. As a note, Mr. Kagan is located in Albany, New York.
15. For the Court's reference, included in Exhibit A of this Declaration are the costs and disbursements for this matter.
16. The costs and disbursements total \$496.46, and are itemized as follows:
 - a. \$402 filing fee for summons and complaint;
 - b. \$78 fee for service of process upon Defendant; and
 - c. \$16.46 costs incurred for Westlaw research.
17. All fees charged in this matter were required to analyze and enforce NLD Rochester's rights under the Assignment and applicable law.
18. Pursuant to the Affidavit of Kasey Ratliff, Esq., NLD Rochester incurred \$12,200.04 for professional services leading up to and including the commencement and pendency of this action. *See* Exhibit A of the Ratliff Affidavit submitted with this application.
19. Pursuant to [Federal Rules of Civil Procedure Rule 55\(a\)](#), the Clerk of the Court entered a Certificate of the Entry of Default against the Defendant, 440 Lake Avenue, LLC on April 13, 2023 ([Dkt. No. 9](#)).

20. After the Clerk's entry of default, a Notice of Appearance by Chad W. Flansburg on behalf of Defendant was entered ([Dkt. No. 10](#)) and a Notice of Substitution of Counsel by Mr. Flansburg for Mr. Shur ([Dkt. No. 11](#)).
21. The disbursements set forth in this affidavit and sought to be taxed have been made in the action or will necessarily be made or incurred therein.
22. Upon information and belief, the amount of \$113,794.56 is justly due and owing and no part thereof has been paid except as herein set forth.

Basis for Attorneys' Fees

23. The [Federal Rules of Civil Procedure 54\(d\)](#) allows for a motion to recover attorneys' fees if there is a "statute, rule, or other grounds entitling the moving party to the award."
24. As the Hidalgo Affidavit points out, the Assignment and Assumption of Lease (the "Assignment") ([Dkt. No. 1-1](#)) between David J. Pelusio, Sr. and Mr. Hidalgo.
25. The section 4 of the Assignment requires 440 Lake Avenue to:

indemnify [NLD Rochester] against, and agrees to defend and hold [NLD Rochester] harmless of and from, all liabilities, obligations, actions, suits, proceedings or claims, and all losses, costs and expenses, including but not limited to reasonable attorneys' fees, arising as a result of *any act, omission or obligation of* [440 Lake Avenue] arising or accruing with respect to the Lease prior to the Effective Date.
26. The Effective Date of the Assignment is January 26, 2021.
27. On review of the demand letter sent from Speedway, LLC, the tenant, and upon information and belief, 440 Lake Avenue has accepted wrongly paid rent since on or about December 23, 2020. This acceptance of wrongful rent continued through March 23, 2022.

28. The continued wrongful collection of the rent payments results in a continuing wrong under New York and federal jurisprudence. [*Repicci v. Jarvis*, 2020 WL 13200595 at *10 \(W.D.N.Y. 2020\)](#); [*Capruso v. Village of Kings Point*, 23 NY3d 631, 639 \(2014\)](#).
29. Even without relying on NLD Rochester's continuing wrong argument, the Court should still find that section 4 of the Assignment applies because the wrong complained of in the present action started prior to the Effective Date.
30. Therefore, the wrongful acts of 440 Lake Avenue that gave rise to the present action began prior to the Effective Date of the Assignment and continued until March 2022.
31. Therefore, NLD Rochester must be awarded attorneys' fees pursuant to the Assignment agreed to by 440 Lake Avenue, LLC

Dated April 28, 2023

/s/Maxwell C. Radley
Maxwell C. Radley, Esq.

EXHIBIT A

Hurwitz Fine P.C.

1300 Liberty Building
 Buffalo, NY 14202
 716-849-8900
 Tax ID No. 16-1085939

NLD Rochester LLC
 Attn: M. Kasey Ratliff
 Winstead PC
 500 Winstead Bldg
 2728 N Harwood St
 Dallas, TX 75201

kratliff@winstead.com

February 6, 2023
 11539-20221980
Invoice No. 2040514
 MCR

For Legal Services Rendered through 01/31/23

Re: NLD Rochester v. 440 Lake Avenue

Itemized Services

Date					Hours	Amount
12/02/22	SDK	L110	A104	Receipt and review of fully executed Engagement Letter from Client.	0.10	27.50
12/07/22	MFP	L120	A106	Conference call with the clients.	0.50	180.00
12/13/22	MCR	L120	A104	Review and analyze complaint and causes of action.	0.40	80.00
12/13/22	MCR	L210	A103	Review and revise complaint.	1.30	260.00
12/13/22	MCR	L120	A102	Research regarding causes of action under presented fact pattern.	1.10	220.00
12/14/22	MCR	L210	A103	Review and revise draft complaint.	0.80	160.00
12/15/22	MCR	L120	A103	Review and revise complaint and confirm addresses.	0.20	40.00
12/15/22	MCR	L120	A107	Confer with Mr. Joeckel and Mr. Ratliff regarding causes of action in complaint.	0.10	20.00
12/16/22	MCR	L210	A103	Review and analyze complaint and put in final; confer with Mr. Ratliff regarding final complaint.	0.20	40.00

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Invoice No. 2040514

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Itemized Services

Date					Hours	Amount
12/21/22	MCR	L120	A107	Review and consider Texas counsel's and the client's requested changes to the pleadings and consider the same.	0.20	40.00
12/22/22	MCR	L210	A103	Review and revise complaint pursuant to Texas Counsel's and client's suggestions.	0.30	60.00
12/22/22	MCR	L120	A107	Confer with Texas Counsel regarding changes to complaint and needed documents.	0.10	20.00
12/22/22	MCR	L110	A104	Critical analysis of file for documentation and support for claims.	0.20	40.00
12/22/22	MCR	L210	A102	Research regarding federal signature requirements and filing instructions.	0.30	60.00
12/22/22	MCR	L120	A104	Review and analyze documents received from Texas counsel.	0.20	40.00
12/27/22	MCR	L120	A102	Research regarding demands of complaint.	0.20	40.00
01/03/23	MCR	L210	A103	Review and revise complaint.	0.20	40.00
01/03/23	MCR	L210	A103	Prepare summons and civil cover sheet.	0.20	40.00
01/03/23	MCR	L210	A102	Research to confirm proper forms for commencement of federal civil proceeding.	0.20	40.00
01/03/23	MCR	L120	A105	Confer with Attorney Schillaci regarding whether action would be suitable for jury trial.	0.30	60.00
01/03/23	MCR	L110	A102	Research regarding constructive trust to determine whether it fits as a cause of action within the facts presented.	0.40	80.00
01/03/23	MCR	L210	A102	Review and revise complaint to include additional cause of action.	0.50	100.00

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Invoice No. 2040514

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Itemized Services

Date					Hours	Amount
01/03/23	AS	L210	A104	Review draft Complaint.	0.20	72.00
01/03/23	AS	L120	A105	Confer with Attorney Radley regarding strategy for Complaint.	0.20	72.00
01/04/23	MCR	L120	A102	Research regarding jurisdictional requirements for LLC in diversity actions.	0.30	60.00
01/04/23	MCR	L110	A102	Research regarding location of members of the parties.	0.20	40.00
01/04/23	MCR	L110	A104	Review and analyze documents provided by Texas Counsel.	0.20	40.00
01/04/23	MCR	L210	A103	Review and revise complaint.	0.40	80.00
01/04/23	MCR	L120	A105	Confer with Attorney Schillaci regarding pleading constructive trust and moving that cause of action forward.	0.20	40.00
01/04/23	MCR	L210	A107	Confer with Attorney Ratliff regarding revised complaint and status of matter.	0.20	40.00
01/04/23	AS	L210	A103	Review and revise draft Complaint.	0.30	108.00
01/04/23	AS	L210	A102	Legal research regarding existence of a fiduciary duty in context of existing facts to support cause of action for constructive trust.	0.50	180.00
01/09/23	MCR	L210	A107	Confer with Mr. Ratliff regarding status of complaint review .	0.10	20.00
01/10/23	MCR	L210	A107	Confer with Mr. Ratliff regarding client review of complaint.	0.10	20.00
01/11/23	MCR	L210	A107	Confer with Mr. Ratliff regarding jurisdictional questions.	0.10	20.00

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Invoice No. 2040514

February 6, 2023
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Itemized Services

Date					Hours	Amount
01/11/23	MCR	L120	A107	Review and analyze revision recommendation from Mr. Ratliff; confer with Mr. Ratliff regarding the same.	0.20	40.00
01/12/23	MCR	L210	A107	Confer with Mr. Ratliff regarding revised complaint.	0.10	20.00
01/12/23	MCR	L210	A103	Review and revise complaint.	0.20	40.00
01/12/23	MCR	L210	A102	Research regarding Western District of New York's rules regarding footnotes.	0.10	20.00
01/23/23	MCR	L210	A105	Confer with Attorney Schillaci regarding commencement of case and instruct staff regarding filing.	0.40	80.00
01/23/23	LD	L210	A103	Review complaint and exhibits for US District Court compliance and file.	1.50	210.00
01/23/23	AS	L210	A104	Review Complaint before filing.	0.40	144.00
01/23/23	AS	L210	A105	Confer with Attorney Radley regarding filing of Complaint.	0.20	72.00
01/24/23	MCR	L210	A107	Confer with Mr. Ratliff regarding complaint and service.	0.10	20.00
01/24/23	LD	L430	A103	Draft Corporate Disclosure Statement.	0.40	56.00
01/25/23	MCR	L210	A104	Review and analyze court correspondence regarding disclosure statements.	0.20	40.00
01/25/23	MCR	L210	A102	Research regarding disclosure statement.	0.40	80.00
01/25/23	MCR	L210	A102	Research regarding citizenship determination for limited partnerships.	0.20	40.00
01/25/23	MCR	L210	A103	Review and revise corporate disclosure statement.	0.20	40.00

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Invoice No. 2040514

February 6, 2023
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Itemized Services

Date					Hours	Amount
01/25/23	MCR	L210	A107	Confer with Mr. Ratliff regarding communications and request from court.	0.10	20.00
01/26/23	MCR	L210	A107	Confer with Mr. Ratliff regarding pro hac vice and service.	0.20	40.00
01/26/23	MCR	L120	A102	Research regarding pro hac vice admission procedures.	0.30	60.00
01/26/23	MCR	L210	A105	Confer with Attorney Schillaci regarding pro hac vice admission and moving case forward.	0.30	60.00
01/26/23	MCR	L120	A104	Review and analyze items required for attorney sponsor form for pro hac vice application.	0.10	20.00
01/26/23	AS	L250	A105	Confer with Attorney Radley regarding pro hac vice admission of client's counsel.	0.40	144.00
01/27/23	MCR	L210	A107	Confer with outside counsel regarding pro hac vice information.	0.30	60.00
01/27/23	AS	L250	A105	Confer with Attorney Radley regarding admission pro hac vice of Texas counsel.	0.30	108.00
01/30/23	MCR	L110	A108	Attend to service of process question.	0.20	40.00

Timekeeper Recap

Tkpr		Rate	Hours	Amount
AS	Andrea Schillaci - Senior Partner	360.00	2.50	900.00
MFP	Michael F Perley - Senior Partner	360.00	0.50	180.00
LD	Laura Ducolon - Paralegal	140.00	1.90	266.00
SDK	Scott D. Kagan - Associate	275.00	0.10	27.50
MCR	Maxwell C. Radley - Associate	200.00	12.80	2,560.00

Total Services

\$3,933.50

Date		Description	Amount
01/23/23	E112	Filing fee for Complaint plus exhibits plus Civil Action Cover Sheet plus submittal of Summons for Clerk's Signature. - US District Court - WDNY	402.00

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Invoice No. 2040514

February 6, 2023
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Date	Description	Amount
E106	Online research through 01/31/23	8.75
Total Expenses		\$410.75
Fees Due This Invoice		3,933.50
Disbursements Due This Invoice		410.75
Total Due This Invoice		\$4,344.25

Mail Checks To:
 1300 Liberty Building
 Buffalo, NY 14202
 Please Reference Your Invoice Number

Pay By Credit Card Online:
<https://www.hurwitzfine.com/contact-us>

Laura DuColon

From: do_not_reply@psc.uscourts.gov
Sent: Monday, January 23, 2023 4:38 PM
To: Laura DuColon
Subject: Pay.gov Payment Confirmation: NEW YORK WESTERN DISTRICT COURT

Your payment has been successfully processed and the details are below. If you have any questions or you wish to cancel this payment, please contact: Lisa Ball at 716-551-1731.

Account Number: 4513428
Court: NEW YORK WESTERN DISTRICT COURT
Amount: \$402.00
Tracking Id: ANYWDC-4777178
Approval Code: 048404
Card Number: *****3825
Date/Time: 01/23/2023 04:37:55 ET

NOTE: This is an automated message. Please do not reply

Hurwitz Fine P.C.

1300 Liberty Building
 Buffalo, NY 14202
 716-849-8900
 Tax ID No. 16-1085939

NLD Rochester LLC
 Attn: M. Kasey Ratliff
 Winstead PC
 500 Winstead Bldg
 2728 N Harwood St
 Dallas, TX 75201

April 19, 2023
 11539-20221980
Invoice No. 2043261
 MCR

kratliff@winstead.com

For Legal Services Rendered through 03/31/23

Re: NLD Rochester v. 440 Lake Avenue

Itemized Services

Date					Hours	Amount
02/02/23	MCR	L210	A107	Confer with Mr. Ratliff regarding status of service and receipt of corporate disclosure statement.	0.10	20.00
02/02/23	MCR	L110	A104	Review and analyze corporate disclosure form sent from Mr. Ratliff.	0.30	60.00
02/02/23	AS	L250	A104	Receipt and review revised corporate disclosure and consider same.	0.20	72.00
02/03/23	MCR	L110	A105	Confer with Attorney Schillaci regarding depth of disclosure and adequacy of disclosure.	0.10	20.00
02/03/23	MCR	L210	A107	Attend to service of process correspondence; confer with Mr. Ratliff regarding confirming service was completed.	0.20	40.00
02/03/23	MCR	L160	A105	Confer with Attorney Schillaci regarding strategy moving forward with settlement negotiations.	0.10	20.00
02/03/23	MCR	L160	A107	Confer with Mr. Ratliff regarding settlement offer received from defendant.	0.20	40.00

Client Ref: 11539 - 20221980 - NLD Rochester LLC
Invoice No. 2043261

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Itemized Services

Date					Hours	Amount
02/03/23	AS	L160	A107	Telephone conference with counsel to Defendant regarding potential for resolution.	0.20	72.00
02/03/23	AS	L160	A105	Confer with Attorney Radley regarding strategy for exploration of potential resolution.	0.30	108.00
02/05/23	MCR	L120	A102	Research regarding causes of action and any applicable attorneys fees.	0.40	80.00
02/06/23	NM	L210	A104	Receipt of Affidavit of Service of Complaint on the defendant and prepare same for e-filing.	0.20	28.00
02/06/23	NM	L210	A108	Finalize to file Affidavit of Service of Complaint on the defendant.	0.10	14.00
02/06/23	MCR	L120	A107	Confer with Mr. Ratliff regarding the attorneys' fees demand likelihood of success.	0.20	40.00
02/06/23	MCR	L160	A107	Confer with Mr. Ratliff regarding opposing counsel.	0.10	20.00
02/06/23	AS	L160	A105	Confer with Attorney Radley regarding likelihood of recovery of attorneys' fees to provide context for settlement discussions.	0.20	72.00
02/22/23	MCR	L160	A107	Confer with Mr. Ratliff regarding settlement update.	0.10	20.00
02/22/23	MCR	L210	A102	Review file to confirm date of service of Complaint.	0.10	20.00
02/23/23	MCR	L210	A102	Research regarding default Judgment procedure.	0.30	60.00
02/23/23	MCR	L210	A102	Research regarding whether additional notice is required prior to requesting default be granted.	0.40	80.00
02/24/23	MCR	L210	A102	Research regarding timing to take default and confirm no deviation in local rules.	0.40	80.00

Client Ref: 11539 - 20221980 - NLD Rochester LLC
Invoice No. 2043261

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Itemized Services

Date					Hours	Amount
02/24/23	MCR	L210	A107	Confer with Mr. Ratliff regarding status of settlement conversations and detail that Defendant has defaulted on matter.	0.10	20.00
02/26/23	MCR	L160	A107	Confer with Mr. Ratliff regarding whether any counteroffer to settlement offer.	0.10	20.00
02/27/23	MCR	L160	A105	Confer with Attorney Schillaci regarding settlement communications.	0.10	20.00
02/27/23	MCR	L160	A107	Confer with Mr. Ratliff regarding confirmation of no counteroffer and need to be brought current before taking default.	0.20	40.00
02/28/23	MCR	L160	A107	Review and consider correspondence from Mr. Ratliff; confer regarding settlement discussions with opposing counsel and timing of taking default.	0.20	40.00
02/28/23	MCR	L210	A107	Confer with Mr. Ratliff regarding extension to file answer.	0.10	20.00
03/01/23	MCR	L210	A105	Confer and analyze stipulation for extension to answer.	0.10	20.00
03/02/23	MCR	L210	A104	Review and analyze proposed stipulation extending time to answer.	0.10	20.00
03/02/23	AS	L210	A107	Exchange correspondence with opposing counsel regarding stipulation to extend time to Answer.	0.30	108.00
03/02/23	AS	L250	A103	Exchange correspondence with opposing counsel regarding stipulation to extend time to Answer.	0.10	36.00

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Invoice No. 2043261

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Itemized Services

Date					Hours	Amount
03/24/23	MCR	L210	A105	Review and consider deadline request from opposing counsel: confer with Attorney Schillaci regarding consenting to and strategize on how to proceed.	0.20	40.00
03/24/23	MCR	L210	A107	Confer with Mr. Ratliff regarding extension request and subsequent consent to same.	0.10	20.00
03/27/23	MCR	L210	A107	Confer with Mr. Ratliff regarding extension on progressing further.	0.10	20.00

Timekeeper Recap

Tkpr		Rate	Hours	Amount
AS	Andrea Schillaci - Senior Partner	360.00	1.30	468.00
NM	Nancy Miller - Paralegal	140.00	0.30	42.00
MCR	Maxwell C. Radley - Associate	200.00	4.40	880.00

Total Services

\$1,390.00

Date		Description	Amount
02/06/23	E113	Fee for service of process of Summons and Complaint on defendant, 440 Lake Avenue LLC - WNY Process Service, LLC	78.00
	E106	Online research through 03/31/23	7.71

Total Expenses

\$85.71

Fees Due This Invoice 1,390.00

Disbursements Due This Invoice 85.71

Total Due This Invoice

\$1,475.71

Mail Checks To:
 424 Main Street, Suite 1300
 Buffalo, NY 14202
 Please Reference Your Invoice Number

Pay By Credit Card Online:
<https://www.hurwitzfine.com/contact-us>

**SERVICE INVOICE**

Invoice #: 5106081
 Invoice Date: 02/04/2023
 Amount Due: \$78.00
DUE ON RECEIPT

WNY Process Service, LLC
 62 Highland Avenue
 Buffalo, New York 14224
 Phone: (716) 481-9620
 Email: service@wnyprocess.com

Pay Online With Credit/Debit Card
[**CLICK HERE**](#)

Tax ID: 20-1784377

Invoice To

Hurwitz Fine, PC
 Nancy Miller
 424 Main St
 1300
 Buffalo, NY 14202-3727

Job #	Service Information	Job Charges
7060711	Caption: NLD ROCHESTER LLC v. 440 LAKE AVENUE, LLC County: NY Case Ref: 23-CV-6058 DGL Serve To: 440 LAKE AVENUE, LLC Address: 5 TRAILWOOD CIRCLE, ROCHESTER, NY 14618 Service Date: 02/02/2023 at 5:48 PM Manner: Corporation Documents: SUMMONS IN A CIVIL ACTION; COMPLAIN	MONROE, NIAGARA ROUTINE \$78.00

TOTAL CHARGES: \$78.00
BALANCE DUE: \$78.00

THANK YOU FOR YOUR BUSINESS!

INVOICE TERMS: PRE-PAYMENT IS REQUIRED FOR NON-ESTABLISHED ACCOUNTS. WE DO NOT ACCEPT CASH CHECKS OR MONEY ORDERS WHATSOEVER. CC payment is REQUIRED. ESTABLISHED ACCOUNTS-Payment is due on receipt. REGULAR RATES INCLUDE UP TO 3 NON RUSH ATTEMPTS PER ADDRESS INVOICED. If you dispute any portion of this invoice, you must notify us in writing within 30 days of the invoice date, or we will deem the invoice to be valid and undisputed. DISCOUNTS ARE VOID AFTER 21 DAYS. A late fee of \$25.00 applies if payment is not received in our office within 15 days of the invoice date.

Hurwitz Fine P.C.

1300 Liberty Building
 Buffalo, NY 14202
 716-849-8900
 Tax ID No. 16-1085939

NLD Rochester LLC
 Attn: M. Kasey Ratliff
 Winstead PC
 500 Winstead Bldg
 2728 N Harwood St
 Dallas, TX 75201

April 26, 2023
 11539-20221980
Invoice No. 2043556
 MCR

kratliff@winstead.com

For Legal Services Rendered through 04/24/23

Re: NLD Rochester v. 440 Lake Avenue

Itemized Services

Date					Hours	Amount
04/10/23	MCR	L210	A105	Confirm non-answer to complaint resulting in default.	0.10	20.00
04/10/23	MCR	L210	A102	Research regarding taking default and proper forms for same.	0.30	60.00
04/10/23	MCR	L210	A103	Prepare application for default papers.	0.80	160.00
04/10/23	MCR	L210	A102	Research and check local rules to confirm default papers must be served on Defendant.	0.30	60.00
04/11/23	MCR	L210	A107	Confer with Mr. Ratliff regarding continued default and applying for default with clerk.	0.20	40.00
04/11/23	MCR	L210	A102	Research to confirm service of default documents not required due to attorney appearance.	0.20	40.00
04/11/23	MCR	L210	A103	Review and finalize default request for filing.	0.20	40.00
04/12/23	MCR	L210	A103	Prepare update and supplement information in default declaration prior to filing, direct staff regarding filing and taking default.	0.30	60.00

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Invoice No. 2043556

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Itemized Services

Date					Hours	Amount
04/12/23	AS	L240	A103	Review and revise affirmation in support of Motion for default Judgment.	0.40	144.00
04/12/23	AS	L240	A105	Confer with Attorney Radley regarding Motion for default Judgment.	0.20	72.00
04/13/23	MCR	L120	A104	Consider telephone call from opposing counsel and confer with Attorney Ratliff regarding request to vacate default and options.	0.50	100.00
04/13/23	MCR	L160	A107	Confer with Attorney Ratliff and opposing counsel regarding settlement of this matter.	0.40	80.00
04/13/23	MCR	L210	A103	Research regarding papers needed and local rules for motion for default; begin preparation of same.	1.50	300.00
04/13/23	AS	L240	A107	Communications with opposing counsel regarding request for relief from default.	0.50	180.00
04/13/23	AS	L240	A105	Confer with Attorney Radley regarding default Judgment and potential for settlement.	0.30	108.00
04/14/23	MCR	L120	A107	Confer with Attorney Schillaci regarding strategy on motion for default; confer with Attorney Ratliff regarding the same.	0.50	100.00
04/14/23	MCR	L210	A103	Review and revise motion for default papers to include attorney's fees and move the court for an award of fees.	1.70	340.00
04/14/23	MCR	L210	A107	Confer with opposing counsel regarding request to extend time to answer.	0.20	40.00
04/14/23	MCR	L210	A102	Research regarding necessary papers for moving the court for default including attorney's fees.	0.60	120.00

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Itemized Services

Date					Hours	Amount
04/14/23	AS	L240	A103	Review and revise draft Affidavit for Judgment of sum certain and additional documents for filing related to default Judgment.	0.20	72.00
04/14/23	AS	L240	A105	Confer with Attorney Radley regarding draft Affidavit for Judgment of sum certain, application for attorney's fees, and potential for settlement.	0.50	180.00
04/16/23	AS	L250	A103	Review and revise draft Affidavit in support of Motion for Attorney's Fees.	0.30	108.00
04/16/23	AS	L250	A102	Legal research to support Motion for Attorney's Fees.	0.40	144.00
04/16/23	AS	L250	A105	Confer with Attorney Radley regarding application for attorney's fees.	0.20	72.00
04/16/23	MCR	L210	A102	Research regarding requirements for moving for attorney's fees in Federal Court.	0.70	140.00
04/17/23	MCR	L210	A103	Review and revise affidavits and declaration in support of attorney's fees pursuant to research.	2.00	400.00
04/17/23	MCR	L120	A102	Research regarding continuing wrong theory to relate back to wrongs commitment prior to assignment.	0.50	100.00
04/19/23	MCR	L240	A105	Confer with Attorney Schillaci regarding motion for default and attorneys' fees.	0.10	20.00
04/19/23	MCR	L120	A102	Research regarding factors to the lodestar method needed to determine reasonableness of attorneys' fees.	0.50	100.00

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Itemized Services

Date					Hours	Amount
04/19/23	MCR	L210	A103	Review and revise affidavits to comply with lodestar requirements.	0.40	80.00
04/19/23	MCR	L210	A107	Confer with Attorney Schillaci and Attorney Ratliff regarding motion for default and fees.	0.20	40.00
04/19/23	AS	L250	A103	Review and revise revised draft Affidavits in Support of Attorneys' Fees Application to reflect compliance with Lodestar analysis.	0.50	180.00
04/24/23	MCR	L210	A107	Confer with Mr. Ratliff regarding affidavits for motion for default and fees.	0.10	20.00
04/24/23	MCR	L210	A103	Review and revise attorney declaration to ensure all numbers are updated.	0.30	60.00

Timekeeper Recap

Tkpr		Rate	Hours	Amount
AS	Andrea Schillaci - Senior Partner	360.00	3.50	1,260.00
MCR	Maxwell C. Radley - Associate	200.00	12.60	2,520.00

Total Services **\$3,780.00**

Fees Due This Invoice 3,780.00

Disbursements Due This Invoice 0.00

Total Due This Invoice **\$3,780.00**

Past Due Balance **\$1,475.71**

Total Due & Owing **\$5,255.71**

Open Invoices for this Matter

Date	Invoice No.	Amount Billed	Amount Paid	Amount Due
04/04/23	2043261	1,475.71	0.00	1,475.71
Outstanding Amount Due:				1,475.71

Current and Outstanding Amount Due: **5,255.71**

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Mail Checks To:
424 Main Street, Suite 1300
Buffalo, NY 14202
Please Reference Your Invoice Number

Pay By Credit Card Online:
<https://www.hurwitzfine.com/contact-us>